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In re Application of :
SHIELS *et al* :
U.S. Application No.: 10/531,565 :
PCT No.: PCT/AU2003/001374 :
Int. Filing Date: 16 October 2003 :
Priority Date: 17 October 2002 :
Attorney's Docket No.: 36677.34 :
For: TREATMENT OF HYPERSENSITIVITY :
CONDITIONS :

DECISION

This is a decision on the request to delete an inventor in the above-captioned application pursuant to 37 CFR 1.497(d) filed 17 April 2006.

BACKGROUND

On 14 April 2005, applicants submitted papers to enter the national stage of PCT/US2004/016038 which was accompanied by, *inter alia*, an Application Data Sheet listing three inventors.

On 11 August 2005, an executed declaration was filed listing only two inventors.

On 12 September 2005, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that the current oath does not comply with 37 CFR 1.497(a) and (b) since there are three inventors listed on the published international application. Additional claim fees of \$25.00, a surcharge fee, and a sequence listing were also requested. Applicants were given two months to respond with extensions of time available.

On 17 April 2006, applicant filed a response which was accompanied by, *inter alia*, a petition under 37 CFR 1.497(d); a copy of a Notification of the Recording of a Change (Form PCT/IB/306) in PCT/AU2003/001374; a five-month extension and fee; a response regarding the sequence listing; the additional claim fee; the surcharge fee and the \$130.00 petition fee.

DISCUSSION

Applicants request to delete David Fairlie as an inventor in the above-captioned

application. A review of the underlying international application PCT/AU2003/001374 shows that Mr. Fairlie was removed as an inventor pursuant to PCT Rule 92*bis*.

The International Bureau mailed a Notification of the Recording of a Change (Form PCT/IB/306) on 19 April 2005 removing David Fairlie as inventor in the international application. This form was not located in the subject application. Nevertheless, a petition under 37 CFR 1.497(d) is not required.

The proper inventive entity in the subject application consists of two inventors, Ian Alexander Shiels and Stephen Maxwell Taylor.

CONCLUSION

Accordingly, applicants' request under 37 CFR 1.497(d) to delete David Fairlie as inventor is **DISMISSED** as **MOOT**.

The petition fee of \$130.00 filed with the subject petition has been credited back to Deposit Account No. 08-1394.

Applicants must submit a Supplemental Application Data Sheet to correct the original Application Data Sheet. See MPEP § 601.05¹

It is noted that the declaration filed 11 August 2005 listing two inventors is in compliance with 37 CFR 1.497(a) and (b).

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.



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¹ MPEP § 605.01 states, in part: Where the oath or declaration under 37 CFR 1.63 or 37 CFR 1.67 contains the correct information regarding inventors or their citizenship and the application data sheet does not, even though the oath or declaration governs pursuant to 37 CFR 1.76(d)(3), the information in the application data sheet must be corrected by submission of a request for correction and a supplemental application data sheet.